

TFW

PATENT
Customer No. 22,852
Attorney Docket No. 5725.0795-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Roberto CAVAZZUTI et al.)
)
Application No.: 10/787,441) Prior Group Art Unit: 3764
)
Filed: February 27, 2004) Prior Examiner: Not Yet Assigned
)
For: METHOD OF MAKING A MASCARA)
COMPOSITION-COMPRISING)
POLYAMIDE POLYMER AND AT)
LEAST ONE SOLID SUBSTANCE)
HAVING A MELTING POINT OF 45°C)
OR GREATER (AS AMENDED)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Office the documents listed on the attached PTO 1449. This Supplemental Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application.

Copies of the listed documents, including any co-pending patent applications, are attached. Applicants have not enclosed a copy of co-pending application number 10/699,780 because it is identical to its parent application, a copy of which has already been submitted in this application. Applicants have also not included a copy of another co-pending application listed on the PTO 1449, which has not been assigned an

application number but has the attorney docket number 05725.0808-02000, was filed on August 16, 2004, and is entitled "Compositions Containing Heteropolymers and Oil-soluble Esters and Methods of Using Same." A copy of this application is not enclosed because it is also identical to its parent application, a copy of which has already been submitted in this application.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003) that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants are not representing that the office actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed substantive office actions from co-pending applications on the attached PTO 1449 and have enclosed copies of the documents as well.

Applicants respectfully request that the Office consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

With regard to the non-English language documents, Applicants note the following:

1. **EP 0 169 997 B1** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.

2. **FR 2 796 272** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
3. **FR 2 796 273** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
4. **FR 2 804 017** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
5. **FR 2 804 018** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
6. **FR 2 810 562** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
7. **FR 2 811 225** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
8. **FR 2 817 739** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
9. **FR 2 817 740** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
10. **FR 2 817 743** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
11. **FR 2 819 399** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.
12. **FR 2 819 400** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith.

13. **WO 01/97773 A1** - An English language Abstract of this document can be found on the front of this document, a copy of which is submitted herewith.
14. **WO 02/056847 A1** - An English language Abstract of this document can be found on the front of this document, a copy of which is submitted herewith.
15. **WO 02/056848 A1** - An English language Abstract of this document can be found on the front of this document, a copy of which is submitted herewith.
16. **WO 02/47622 A2** - An English language Abstract of this document can be found on the front of this document, a copy of which is submitted herewith.
17. **WO 02/47629 A1** - An English language Abstract of this document can be found on the front of this document, a copy of which is submitted herewith.
18. **WO 02/47630 A1** - An English language Abstract of this document can be found on the front of this document, a copy of which is submitted herewith.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Office applies any of the documents as prior art against any claims in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of such documents.

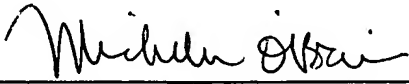
Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please
charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 17, 2004

By: 
Michelle E. O'Brien
Reg. No. 46,203



OMB No. 0651-0011

INFORMATION DISCLOSURE CITATION
(Use several sheets if necessary)

Atty. Docket No.: 05725.0795-02000

Application No.: 10/787,441

Applicant: Cavazzuti et al.

Filing Date: February 27, 2004

Group 3764

U.S. PATENT DOCUMENTS

Examiner Initial*	Document Number	Date	Name	Class	Sub Class	Filing Date If Appropriate
	5,034,219	7/23/1991	Deshpande et al.			
	5,073,364	12/17/1991	Giezendanner et al.			
	5,486,431	1/23/1996	Tuttle et al.			
	5,489,431	2/6/1996	Ascione et al.			
	6,001,980	12/14/1999	Borzo et al.			
	6,066,328	5/23/2000	Ribier et al.			
	6,214,329 B1	4/10/2001	Brieva et al.			
	6,224,851 B1	5/1/2001	Bara			
	6,399,080 B1	6/4/2002	Bara			
	6,649,173 B1	11/18/2003	Arnaud et al.			
	6,726,917 B2	4/27/2004	Kanji et al.			
	6,749,173 B2	6/15/2004	Heiling			

FOREIGN PATENT DOCUMENTS

Examiner Initial*	Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	EP 0 169 997 B1	2/5/1986	Europe			Abstract

Examiner

Date Considered:

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Form PTO 1449

Patent and Trademark Office - U.S. Department of Commerce

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	FR 2 796 272	1/19/2001	France			Abstract
	FR 2 796 273	1/19/2001	France			Abstract
	FR 2 804 017	7/27/2001	France			Abstract
	FR 2 804 018	7/27/2001	France			Abstract
	FR 2 810 562	12/28/2001	France			Abstract
	FR 2 811 225	1/11/2002	France			Abstract
	FR 2 817 739	6/14/2002	France			Abstract
	FR 2 817 740	6/14/2002	France			Abstract
	FR 2 817 743	6/14/2002	France			Abstract
	FR 2 819 399	7/19/2002	France			Abstract
	FR 2 819 400	7/19/2002	France			Abstract
	WO 01/97773 A1	12/27/2001	PCT			English Abstract
	WO 02/056847 A1	7/25/2002	PCT			English Abstract
	WO 02/056848 A1	7/25/2002	PCT			English Abstract
	WO 02/47619 A2	6/20/2002	PCT			English
	WO 02/47622 A2	6/20/2002	PCT			English Abstract
	WO 02/47629 A1	6/20/2002	PCT			English Abstract
	WO 02/47630 A1	6/20/2002	PCT			English Abstract

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Examiner Initial*	Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	WO 02/49583 A1	6/27/2002	PCT			English

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	Co-Pending Application No. 10/182,830; Attorney Docket No. 05725.0795-01 Title: COSMETIC COMPOSITION COMPRISING HETERO POLYMERS AND A SOLID SUBSTANCE AND METHOD OF USING SAME U.S. Filing Date: August 2, 2002
	Co-Pending Application No. 10/203,018; Attorney Docket No. 05725.0816-01 Title: COMPOSITION COMPRISING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE INERT FILLER AND METHODS FOR USE U.S. Filing Date: August 5, 2002
	Co-Pending Application No. 10/203,254; Attorney Docket No. 05725.0817-01 Title: COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE HETEROPOLYMER AND AT LEAST ONE GELLING AGENT AND METHODS OF USING THE SAME U.S. Filing Date: August 7, 2002
	Co-Pending Application No. 10/699,780, Attorney Docket No. 5725.0895-02 Title: METHODS OF DISPERSING AT LEAST ONE COLORING AGENT USING AT LEAST ONE HETEROPOLYMER U.S. Filing Date: November 4, 2003.
	Co-Pending Application No. Not Yet Assigned; Attorney Docket No. 05725.0808-02 Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL SOLUBLE ESTERS AND METHODS OF USING SAME U.S. Filing Date: August 16, 2004.
	English language DERWENT abstract of EP 0 169 997 B
	English language DERWENT abstract of FR 2 796 272
	English language DERWENT abstract of FR 2 796 273
	English language DERWENT abstract of FR 2 804 017

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	English language DERWENT abstract of FR 2 804 018
	English language DERWENT abstract of FR 2 810 562
	English language DERWENT abstract of FR 2 811 225
	English language DERWENT abstract of FR 2 817 739
	English language DERWENT abstract of FR 2 817 740
	English language DERWENT abstract of FR 2 817 743
	English language DERWENT abstract of FR 2 819 399
	English language DERWENT abstract of FR 2 819 400
	Office Action in co-pending Application No. 09/618,066 (Attorney Docket No. 05725.0656-00) dated December 21, 2001 (Ex. Seidleck)
	Office Action in co-pending Application No. 09/618,066 (Attorney Docket No. 05725.0656-00) dated July 15, 2002 (Ex. Sheikh)
	Office Action in co-pending Application No. 09/618,066 (Attorney Docket No. 05725.0656-00) dated July 16, 2003 (Ex. Sheikh)
	Office Action in co-pending Application No. 09/618,066 (Attorney Docket No. 05725.0656-00) dated November 19, 2003 (Ex. Sheikh)
	Office Action in co-pending Application No. 09/685,577 (Attorney Docket No. 05725.0656-01) dated August 11, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 09/685,577 (Attorney Docket No. 05725.0656-01) dated July 15, 2002 (Ex. Sheikh)
	Office Action in co-pending Application No. 09/685,577 (Attorney Docket No. 05725.0656-01) dated July 16, 2003 (Ex. Sheikh)
	Office Action in co-pending Application No. 09/685,577 (Attorney Docket No. 05725.0656-01) dated November 19, 2003 (Ex. Sheikh)
	Office Action in co-pending Application No. 09/685,578 (Attorney Docket No. 05725.0659-01) dated August 11, 2004 (Ex. Pryor)
	Office Action in co-pending Application No. 09/685,578 (Attorney Docket No. 05725.0659-01) dated May 7, 2003 (Ex. Pryor)

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	Office Action in co-pending Application No. 09/685,578 (Attorney Docket No. 05725.0659-01) dated November 19, 2003 (Ex. Pryor)
	Office Action in co-pending Application No. 09/733,896 (Attorney Docket No. 05725.0806) dated January 28, 2003 (Ex. Rajguru)
	Office Action in co-pending Application No. 09/733,896 (Attorney Docket No. 05725.0806) dated July 19, 2002 (Ex. Rajguru)
	Office Action in co-pending Application No. 09/733,896 (Attorney Docket No. 05725.0806) dated November 18, 2003 (Ex. Rajguru)
	Office Action in co-pending Application No. 09/733,897 (Attorney Docket No. 05725.0809) dated April 15, 2002 (Ex. Berman)
	Office Action in co-pending Application No. 09/733,897 (Attorney Docket No. 05725.0809) dated April 23, 2003 (Ex. Wells)
	Office Action in co-pending Application No. 09/733,897 (Attorney Docket No. 05725.0809) dated August 29, 2002 (Ex. Berman)
	Office Action in co-pending Application No. 09/733,897 (Attorney Docket No. 05725.0809) dated May 6, 2004 (Ex. Yu)
	Office Action in co-pending Application No. 09/733,898 (Attorney Docket No. 05725.0808) dated April 29, 2003 (Ex. Yoon)
	Office Action in co-pending Application No. 09/733,898 (Attorney Docket No. 05725.0808) dated August 28, 2002 (Ex. Yoon)
	Office Action in co-pending Application No. 09/733,898 (Attorney Docket No. 05725.0808) dated December 23, 2003 (Ex. Yoon)
	Office Action in co-pending Application No. 09/733,899 (Attorney Docket No. 05725.0594) dated April 7, 2004 (Ex. Lamm)
	Office Action in co-pending Application No. 09/733,899 (Attorney Docket No. 05725.0594) dated April 9, 2003 (Ex. Lamm)
	Office Action in co-pending Application No. 09/733,900 (Attorney Docket No. 05725.0595) dated April 7, 2004 (Ex. Lamm)
	Office Action in co-pending Application No. 09/733,900 (Attorney Docket No. 05725.0595) dated July 16, 2003 (Ex. Lamm)
	Office Action in co-pending Application No. 09/749,036 (Attorney Docket No. 05725.0832) dated August 13, 2003 (Ex. Howard)

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	Office Action in co-pending Application No. 09/749,036 (Attorney Docket No. 05725.0832) dated July 16, 2002 (Ex. Howard)
	Office Action in co-pending Application No. 09/749,036 (Attorney Docket No. 05725.0832) dated May 5, 2004 (Ex. Howard)
	Office Action in co-pending Application No. 09/899,909 (Attorney Docket No. 05725.0920) dated December 18, 2001 (Ex. Dodson)
	Office Action in co-pending Application No. 09/937,314 (Attorney Docket No. 05725.0932) dated May 19, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 09/971,028 (Attorney Docket No. 05725.0895-00) dated August 11, 2003 (Ex. Wang)
	Office Action in co-pending Application No. 09/971,028 (Attorney Docket No. 05725.0895-00) dated March 26, 2003 (Ex. Wang)
	Office Action in co-pending Application No. 10/012,029 (Attorney Docket No. 05725.1003) dated November 20, 2002 (Ex. Venkat)
	Office Action in co-pending Application No. 10/012,029 (Attorney Docket No. 05725.1003) dated September 08, 2003 (Ex. Venkat)
	Office Action in co-pending Application No. 10/012,051 (Attorney Docket No. 05725.1004) dated January 14, 2003 (Ex. Venkat)
	Office Action in co-pending Application No. 10/012,051 (Attorney Docket No. 05725.1004) dated May 14, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 10/012,051 (Attorney Docket No. 05725.1004) dated October 3, 2003 (Ex. Venkat)
	Office Action in co-pending Application No. 10/012,052 (Attorney Docket No. 05725.1005) dated November 6, 2003 (Ex. Wells)
	Office Action in co-pending Application No. 10/012,052 (Attorney Docket No. 05725.1005-00) dated August 9, 2004 (Ex. Wells)
	Office Action in co-pending Application No. 10/046,568 (Attorney Docket No. 05725.1018) dated December 30, 2003 (Ex. Venkat)
	Office Action in co-pending Application No. 10/046,568 (Attorney Docket No. 05725.1018) dated June 12, 2003 (Ex. Venkat)
	Office Action in co-pending Application No. 10/046,568 (Attorney Docket No. 05725.1018) dated November 5, 2002 (Ex. Venkat)

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Applicant: Cavazzuti et al.

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Group 3764

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	Office Action in co-pending Application No. 10/047,987 (Attorney Docket No. 05725.1020) dated December 11, 2003 (Ex. Venkat)
	Office Action in co-pending Application No. 10/047,987 (Attorney Docket No. 05725.1020-00) dated September 7, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 10/182,830 (Attorney Docket No. 05725.1073-00) dated August 24, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 10/198,931 (Attorney Docket No. 05725.0896) dated December 18, 2003 (Ex. Venkat)
	Office Action in co-pending Application No. 10/198,931 (Attorney Docket No. 05725.0896-00) dated September 1, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 10/203,018 (Attorney Docket No. 05725.0816-01) dated May 19, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 10/413,217 (Attorney Docket No. 05725.0895-01) dated September 9, 2004 (Ex. Venkat)
	Office Action in co-pending Application No. 10/787,440 (Attorney Docket No. 05725.0816-02) dated August 24, 2004 (Ex. Venkat)

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